



DEPARTMENT OF THE ARMY
HEADQUARTERS UNITED STATES ARMY FORCES COMMAND
1777 HARDEE AVENUE SW
FORT MCPHERSON GEORGIA 30330-1062

REPLY TO
ATTENTION OF

AFLG-PRO (715)

1 Sep 98

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Contracting Information Letter (CIL) 98-41, Protest
Analysis for Second and Third Quarters FY 98

1. Total number of protests filed:

| | 2Q98 | 3Q98 |
|------------|------|------|
| TOTAL ARMY | 57 | 57 |
| AMC | 10 | 13 |
| USACE | 15 | 10 |
| DA OTHERS | 32 | 34 |

2. Lessons learned, issues and trends:

AMC

FC Business Systems, Inc., B-278730, **sustained**. Sample task orders can be useful tools in the evaluation of proposals. When used; however, the contracting officer should ensure that the evaluation criteria accurately reflect their intended use. If there is no intent to quantitatively consider the cost of the orders in the cost evaluation, then the contracting officer should ensure that the evaluation criteria do not indicate such an intent. In a labor-hour IDIQ type contract, the RFP should include cost evaluation quantities that represent the agency's best estimate of the number of labor hours to be required. The RFP should not permit offerors to base their proposed costs on staff-years with different quantities of hours among offerors. When a cost realism analysis is performed during the course of

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an evaluation, ensure that an offeror is provided with notice of, and an opportunity to respond to, specific adjustments made to its proposed costs. When the evaluation criteria state that the government will evaluate the offeror's total contract life cost and the adjusted cost for the sample task orders, the SSA should address both costs in the source selection decision document and in any trade-off analysis.

USACE

Universal Coating, Inc., B-278700, March 4, 1998, **sustained**. The Comptroller sustained the protest holding that the Corps had improperly found Universal's bid to be nonresponsive based upon what amounted to a typographical error in the bid bond. The protest arose from a bid that mistakenly stated that the bid guarantee was contingent upon the bidder "entering the contract," rather than "submitting its bid." The Comptroller General held that the erroneous language was not enough to make the bond unenforceable against the surety because the bond was nevertheless clear as to the intent of the surety to be bound.

DA Other

a. J&E Associates, Inc., B-278771, **sustained**. J&E protested an RFP issued for educational and technical support services because the agency did not address organizational conflicts of interest (OCI) in the RFP. The GAO determined that an OCI existed for educational institutions submitting offers under an RFP for educational support services where the contractor could advise government personnel to enroll in courses offered by that contractor or verify billing statements submitted by the contractor. Under these circumstances, the RFP must obtain a provision addressing conflicts in accordance with FAR Subpart 9.5.

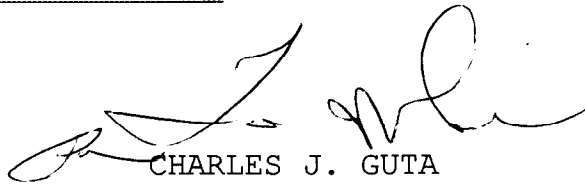
b. Trifax Corp, B-279561, June 29, 1998, **sustained**. Trifax alleged that its evaluation rating/score was arbitrary and unreasonably low under the past/present performance evaluation. Trifax also alleged that its rating/score under the quality control plan factor is unreasonable. Trifax asserted that a

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reasonable evaluation would increase its overall score sufficiently to place its proposal in the competitive range. GAO agreed. Ensure that offerors are provided the opportunity to furnish rebuttal information on past performance problems. Any rebuttal information will be evaluated prior to establishing the competitive range. All contract files will fully document competitive range determinations.

3. For additional information, contact Irene Hamm,
DSN 367-5632, hammi@forscom.army.mil.

A handwritten signature in black ink, appearing to read 'Charles J. Guta', is written over the printed name.

CHARLES J. GUTA
Colonel, AC
C, Contracting Division, DCSLOG
Principal Assistant Responsible
for Contracting